

**ALASKA STATE LEGISLATURE
SENATE LABOR AND COMMERCE STANDING COMMITTEE**

May 17, 2022

12:35 p.m.

DRAFT

MEMBERS PRESENT

Senator Mia Costello, Chair
Senator Joshua Revak, Vice Chair
Senator Gary Stevens
Senator Elvi Gray-Jackson

MEMBERS ABSENT

Senator Peter Micciche

COMMITTEE CALENDAR

SENATE BILL NO. 232

"An Act relating to employee intellectual property."

- HEARD & HELD

COMMITTEE SUBSTITUTE FOR HOUSE BILL NO. 132(FIN)

"An Act relating to technical education and registered apprenticeships."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 232

SHORT TITLE: INTELLECTUAL PROPERTY OF EMPLOYEES

SPONSOR(s): LABOR & COMMERCE

03/15/22	(S)	READ THE FIRST TIME - REFERRALS
03/15/22	(S)	L&C
03/25/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
03/25/22	(S)	Scheduled but Not Heard
04/13/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/13/22	(S)	<Bill Hearing Canceled>
05/11/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
05/11/22	(S)	Scheduled but Not Heard
05/17/22	(S)	L&C AT 9:00 AM BELTZ 105 (TSBldg)

BILL: HB 132

SHORT TITLE: SCHOOL APPRENTICESHIP PROGS; TAX CREDITS

SPONSOR(S): LABOR & COMMERCE

03/10/21	(H)	READ THE FIRST TIME - REFERRALS
03/10/21	(H)	L&C, EDC, FIN
03/15/21	(H)	L&C AT 6:30 PM BARNES 124
03/15/21	(H)	Heard & Held
03/15/21	(H)	MINUTE(L&C)
03/22/21	(H)	L&C AT 3:15 PM DAVIS 106
03/22/21	(H)	Moved CSHB 132(L&C) Out of Committee
03/22/21	(H)	MINUTE(L&C)
03/22/21	(H)	L&C AT 6:30 PM DAVIS 106
03/22/21	(H)	-- MEETING CANCELED --
03/25/21	(H)	L&C RPT CS(L&C) NEW TITLE 5DP 1AM
03/25/21	(H)	DP: SNYDER, SCHRAGE, MCCARTY, SPOHNHOLZ, FIELDS
03/25/21	(H)	AM: NELSON
04/09/21	(H)	EDC AT 8:00 AM DAVIS 106
04/09/21	(H)	Heard & Held
04/09/21	(H)	MINUTE(EDC)
04/19/21	(H)	EDC AT 8:00 AM DAVIS 106
04/19/21	(H)	Heard & Held
04/19/21	(H)	MINUTE(EDC)
04/23/21	(H)	EDC AT 8:00 AM DAVIS 106
04/23/21	(H)	Moved CSHB 132(EDC) Out of Committee
04/23/21	(H)	MINUTE(EDC)
04/28/21	(H)	EDC RPT CS(EDC) NEW TITLE 3DP 3NR
04/28/21	(H)	DP: ZULKOSKY, DRUMMOND, STORY
04/28/21	(H)	NR: CRONK, GILLHAM, HOPKINS
05/06/21	(H)	FIN AT 9:00 AM ADAMS 519
05/06/21	(H)	Heard & Held
05/06/21	(H)	MINUTE(FIN)
05/07/21	(H)	FIN AT 1:30 PM ADAMS 519
05/07/21	(H)	Heard & Held
05/07/21	(H)	MINUTE(FIN)
05/14/21	(H)	FIN AT 1:30 PM ADAMS 519
05/14/21	(H)	Moved CSHB 132(FIN) Out of Committee
05/14/21	(H)	MINUTE(FIN)
05/18/21	(H)	FIN RPT CS(FIN) NEW TITLE 7DP 1DNP 2NR
05/18/21	(H)	DP: ORTIZ, EDGMON, LEBON, THOMPSON, WOOL, MERRICK, FOSTER
05/18/21	(H)	DNP: CARPENTER
05/18/21	(H)	NR: JOHNSON, JOSEPHSON
05/19/21	(H)	LIMIT ALL DEBATE TO 2 MIN EACH Y23 N16 E1
05/19/21	(H)	TRANSMITTED TO (S)

05/19/21	(H)	VERSION: CSHB 132(FIN)
01/18/22	(S)	READ THE FIRST TIME - REFERRALS
01/18/22	(S)	EDC, L&C, FIN
03/11/22	(S)	EDC AT 9:00 AM BUTROVICH 205
03/11/22	(S)	Heard & Held
03/11/22	(S)	MINUTE(EDC)
04/11/22	(S)	EDC AT 9:00 AM BUTROVICH 205
04/11/22	(S)	Heard & Held
04/11/22	(S)	MINUTE(EDC)
04/13/22	(S)	EDC AT 9:00 AM BUTROVICH 205
04/13/22	(S)	-- MEETING CANCELED --
04/20/22	(S)	EDC AT 9:00 AM BUTROVICH 205
04/20/22	(S)	Moved SCS CSHB 132(EDC) Out of Committee
04/20/22	(S)	MINUTE(EDC)
04/22/22	(S)	EDC RPT SCS(EDC) 3DP 1NR NEW TITLE
04/22/22	(S)	DP: HOLLAND, HUGHES, MICCICHE
04/22/22	(S)	NR: STEVENS
04/27/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
04/27/22	(S)	-- MEETING CANCELED --
05/04/22	(S)	L&C AT 1:30 PM BELTZ 105 (TSBldg)
05/04/22	(S)	Heard & Held
05/04/22	(S)	MINUTE(L&C)

WITNESS REGISTER

KATIE MCCALL, Staff
 Senator Mia Costello
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Introduced SB 232.

MARK BILLINGSLEY, Director
 Office of Intellectual Property & Commercialization;
 Center for Innovation, Commercialization, and Entrepreneurship
 University of Alaska Fairbanks (UAF)
 Fairbanks, Alaska

POSITION STATEMENT: Testified by invitation on SB 232.

KATIE MCCALL, Staff
 Senator Mia Costello
 Alaska State Legislature
 Juneau, Alaska

POSITION STATEMENT: Provided an explanation of Amendment 1 for
 HB 132.

REPRESENTATIVE ZACK FIELDS

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Co-chair of the House Labor and Commerce Standing Committee, sponsor of HB 132, offered to answer questions about Amendment 1.

ALICIA MALTBY, President and CEO
Associated Builders and Contractors (ABC) of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Amendment 1 for HB 132.

ALICIA SIIRA, Executive Director
Associated General Contractors (AGC) of Alaska
Anchorage, Alaska

POSITION STATEMENT: Testified in support of Amendment 1 for HB 132.

REPRESENTATIVE IVY SPOHNHOLZ
Alaska State Legislative
Juneau, Alaska

POSITION STATEMENT: Co-chair of the House Labor and Commerce Committee, sponsor of HB 132, opposed Amendment 1.

ACTION NARRATIVE

[12:35:39 PM](#)

CHAIR MIA COSTELLO called the Senate Labor and Commerce Standing Committee meeting to order at 12:35 p.m. Present at the call to order were Senators Gray-Jackson, Revak, and Chair Costello. Senator Stevens joined the committee soon thereafter.

SB 232-INTELLECTUAL PROPERTY OF EMPLOYEES

[12:36:12 PM](#)

CHAIR COSTELLO announced the consideration of SENATE BILL NO. 232 "An Act relating to employee intellectual property."

She noted that this was the first hearing and the intention was to hear the introduction, take questions, hear public testimony, and look to the will of the committee.

[12:36:39 PM](#)

KATIE MCCALL, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, introduced SB 232 paraphrasing the sponsor statement that read as follows:

Senate Bill 232 protects Alaskan innovators. Right now, an employer can try to claim, and profit from, an employee's personal creations. This bill will protect Alaskans' intellectual property. An employee who invents something, from widgets to software, on their own time with their own resources, will keep the rights to their invention. The bill also makes sure any disputes are heard in Alaska courts, not those of other states.

Protecting Alaskans' intellectual property helps further innovation and economic development in Alaska by demonstrating our state's commitment to supporting those with new and unique ideas. Implementing the protections in Senate Bill 232 would provide assurance to Alaskan employees that their innovative ideas are their own.

[12:37:49 PM](#)

SENATOR STEVENS joined the committee.

[12:37:55 PM](#)

MS. MCCALL presented the sectional analysis for SB 232:

Sec. 1 - AS 23.10.038 Page 1, Lines 3-15 & Page 2, Line 1

Adds a new section of law which:

- Prohibits employers from claiming rights to an employee's intellectual property, if the employee developed an invention on their own time, outside the scope of employment, and without using the employer's resources
- Invalidates any employment agreement which tries to give the employer rights to an employee's personal inventions
- Ensures employees have access to the Alaska courts to defend their personal inventions

Sec. 2 - Page 2, Lines 2-5

Specifies that this Act only applies to employment agreements on or after the effective date.

[12:38:56 PM](#)

CHAIR COSTELLO found no questions and invited Mark Billingsley to provide his testimony

[12:39:27 PM](#)

MARK BILLINGSLEY, Director, Office of Intellectual Property & Commercialization, and the Center for Innovation, Commercialization, and Entrepreneurship, University of Alaska Fairbanks (UAF), Fairbanks, Alaska, stated that he is one of two practicing patent attorneys in the state. His job at the university is to implement and commercialize university research and development (R&D) and spur entrepreneurial endeavors. He offered his perspective that there was a lot of opportunity in Alaska and that there was a lot of interest in the state nationally, but that it had a long way to go to be competitive with the rest of the U.S. He said innovations don't necessarily mean designing new things. What's needed here is to take what already exists, bring in to Alaska, and adapt it for use here. He pointed out that Alaska needs programs and systems, economic structures, and financial tools.

MR. BILLINGSLEY said SB 232 broadly addresses employment contracts and an employer who claims the intellectual property rights of an employee's innovation that was developed on their own time, in their own place, and using their own resources. He said it would be for the courts to decide but he wonders whether such an employment contract would be enforceable. He noted that whoever drafted the bill did a good job of recognizing potential issues with retroactive application.

[12:44:16 PM](#)

CHAIR COSTELLO asked if the bill addresses the situation of an individual who on their own time and in their own place, innovates some kind of intellectual property and commercializes it, and their employer assert ownership.

MR. BILLINGSLEY said the default owner of intellectual property is the inventor or author so in that example the employee is the owner, not the employer. The main exception to that is invention for hire, which is when somebody is specifically hired to invent something. Large organizations typically have employee language in the hiring contract that assigns everything the employee invents that is related to the scope of their work to that organization. Even if that language is missing there is a legal mechanism for the employer to keep ownership of the invention.

CHAIR COSTELLO asked if it was his opinion that SB 232 places the default into statute, which is that the employee owns their intellectual property.

MR. BILLINGSLEY replied the default is that the employee owns their intellectual property. His view of the legislation is that it seeks to overcome a contract that tries to undermine the default.

CHAIR COSTELLO thanked him for the testimony.

[12:48:44 PM](#)

CHAIR COSTELLO opened public testimony on SB 232; finding none, she closed public testimony.

[12:49:02 PM](#)

At ease

[12:50:10 PM](#)

CHAIR COSTELLO reconvened the meeting and stated she would hold SB 232 in committee.

HB 132-SCHOOL APPRENTICESHIP PROGS; TAX CREDITS

[12:50:16 PM](#)

CHAIR COSTELLO announced the consideration of CS FOR HOUSE BILL NO. 132(FIN) "An Act relating to technical education and registered apprenticeships."

[SCS CSHB 132(EDC) was before the committee.]

[12:50:29 PM](#)

CHAIR COSTELLO moved to adopt Amendment 1, work order 32-LS0476\F.1.

32-LS0476\F.1
Klein
5/16/22

AMENDMENT 1

OFFERED IN THE SENATE
TO: SCS CSHB 132(EDC)

BY SENATOR COSTELLO

Page 6, following line 22:

Insert a new subsection to read:

"(e) A contract under this section must allow an apprentice enrolled in an apprenticeship program under 29 U.S.C. 50 - 50c and the employer of the apprentice to compete for construction projects and may not require that the apprentice or employer be a signatory to a collective bargaining agreement."

SENATOR REVAK objected for discussion purposes.

12:50:44 PM

KATIE MCCALL, Staff, Senator Mia Costello, Alaska State Legislature, Juneau, Alaska, explained that Amendment 1 would insert a new subsection, the intent of which is to allow an apprentice enrolled in an apprenticeship program and their employer to compete for construction projects without being part of a collective bargaining agreement.

12:51:58 PM

At ease

12:52:14 PM

CHAIR COSTELLO reconvened the meeting and asked Representative Fields to comment on Amendment 1.

12:52:21 PM

REPRESENTATIVE ZACK FIELDS, Alaska State Legislature, Juneau, Alaska, speaking as co-chair of the House Labor and Commerce Committee that sponsored HB 132, stated that he could answer questions about Amendment 1, but he would not speak in favor or against it because it touches on his private sector work with the Anchorage School District.

12:52:54 PM

SENATOR REVAK asked where the bill goes next.

CHAIR COSTELLO replied it goes to Senate Finance.

REPRESENTATIVE FIELDS advised that the Senate Education Committee removed the tax credit, which may eliminate the need for the finance referral.

SENATOR REVAK asked for a plain explanation of what the amendment would do, if it were to pass.

[12:53:34 PM](#)

REPRESENTATIVE FIELDS said his understanding of what the amendment would do is to restrict school districts from using state money awarded through DEED for projects where a school board had put a student community workforce agreement in place. He explained that community workforce agreements were similar to project labor agreements.

CHAIR COSTELLO said the intention of the amendment is to expand the scope of application to provide more opportunities.

[12:54:11 PM](#)

At ease

[12:58:11 PM](#)

CHAIR COSTELLO reconvened the meeting and advised that she would recess the committee to provide members time to review the amendment and bill.

[12:58:37 PM](#)

CHAIR COSTELLO stated that she had a clarification for the record. She stated that when the joint body was considering governor appointees to boards and commissions, she incorrectly stated that the four people who testified in this committee against Ramsey Bell's appointment to the Board of Pharmacy were members of the board. She relayed her intention to write the board a letter apologizing for that misstatement and advising that it was corrected in a public hearing.

[12:59:50 PM](#)

CHAIR COSTELLO recessed the meeting to a call of the chair.

[3:04:57 PM](#)

CHAIR COSTELLO reconvened the meeting. Senators Gray-Jackson, Stevens and Chair Costello were present.

HB 132-SCHOOL APPRENTICESHIP PROGS; TAX CREDITS

[3:05:06 PM](#)

CHAIR COSTELLO returned attention to HB 132 and asked Alicia Maltby to provide her comments on the proposed Amendment 1.

[3:05:37 PM](#)

ALICIA MALTBY, President and CEO, Associated Builders and Contractors (ABC) of Alaska, Anchorage, Alaska, shared the history of the association and relayed that unions recently received approval for community workforce agreements on all

Anchorage School District construction projects. She reported that 75 percent of the Alaskan construction workforce is nonunion and said these workers would be ineligible to work on those projects under this agreement. She cited an example from just one contractor member who won and completed the following projects:

- \$12 million for Chester Valley school renovation
- \$15 million for Girdwood K-8 remodel
- \$8 million for Rabbit Creek Elementary renewal
- \$60 million Airport Heights school addition and
- \$11.7 million for Eagle River earthquake recovery projects.

She pointed out that the contractor, the Alaskan employees, and the Alaskan apprentices that worked on these projects will no longer be eligible to work on Anchorage School District projects.

MS. MALTBY stated support for Amendment 1 that says school districts must allow apprentices and their employers that are not in a bargaining unit to work on school projects. It means that state funding may not be used to discriminate against apprentices who choose not to join a union hall. She said the apprenticeship program should be fair and open to all and this amendment will allow for that. She urged the committee to pass Amendment 1.

[3:08:40 PM](#)

CHAIR COSTELLO related her understanding that nothing in the amendment or bill would prohibit ABC from using a project labor agreement; it's just not a mandate. She asked if that was correct.

MS. MALTBY answered yes; contractors may put a PLA on any of their projects, but most ABC member contractors are not doing so.

CHAIR COSTELLO discerned there were no questions and asked Alicia Siira to comment on Amendment 1.

[3:09:32 PM](#)

ALICIA SIIRA, Executive Director, Associated General Contractors (AGC) of Alaska, Anchorage, Alaska, advised that AGC is a trade association that represents both union and nonunion contractors. They support Amendment 1, and do not support a requirement to use a project labor agreements on publicly funded projects. AGC contractors are, however, free to use PLAs if they feel it would

be a good tool for a particular project. She concluded her comments stating support for both the bill and amendment.

CHAIR COSTELLO asked Representative Spohnholz to comment on Amendment 1 as co-chair of the House Labor and Commerce Standing Committee that sponsored HB 132.

3:11:05 PM

REPRESENTATIVE IVY SPOHNHOLZ, Alaska State Legislative, Juneau, Alaska, speaking as co-chair of the House Labor and Commerce Committee that sponsored HB 132, said she appreciates the intent but believes the amendment would prevent local communities from exercising local control. The constitution supports local control and she and Representative Fields believe that local communities and jurisdictions should have the option of entering into project labor agreements just as contractors have that choice. She said PLAs ensure that the people who oversee apprentices are well-trained and will receive a living wage. She stressed that nothing in the legislation requires participation in a PLA, but it would ensure that local jurisdictions have the option of entering into a PLA. She concluded that she did not support Amendment 1, because it would undermine the intention of the bill.

REPRESENTATIVE FIELDS, Alaska State Legislative, Juneau, Alaska, speaking as co-chair of the House Labor and Commerce Committee that sponsored HB 132, restated that he would not discuss the amendment because it touches on his private sector work.

3:12:43 PM

CHAIR COSTELLO offered her understanding that projects that use local funds would fall under the student community workforce agreement. She said the amendment specifically addresses projects that use state funds and both the Associated Builders and Contractors (ABC) of Alaska and Associated General Contractors (AGC) of Alaska said they had the option of using a project labor agreement. She asked Representative Spohnholz if she wanted to clarify her remarks related to the funding source.

3:13:15 PM

REPRESENTATIVE SPOHNHOLZ said she and her co-chair generally believe in local communities being able to make decisions at the local level; that state funding is meant to augment local funding for those projects; and that it is important to ensure that communities continue to have the option to advance projects using a PLA if they believe it is in their best interest to do

so. She underscored the emphasis the state constitution places on local control to the maximum extent possible.

CHAIR COSTELLO asked if she was aware of any problems associated with the construction projects for the elementary schools that Ms. Maltby mentioned that would have been addressed had there been a project labor agreement.

REPRESENTATIVE SPOHNHOLZ replied she didn't have any comment on specific projects other than that she attended Rabbit Creek Elementary School and was pleased to see that work was done.

[3:14:19 PM](#)

SENATOR STEVENS asked for examples of projects he might be aware of that would have problems under the proposed amendment.

SENATOR GRAY-JACKSON cited her positive experience with project labor agreements and that the community had been well served by qualified and well paid workers on these projects. She would hate to see anything prevent the use of PLAs.

CHAIR COSTELLO related her understanding that Amendment 1 would allow companies that don't require union membership to bid on projects. She referenced the list of projects Ms. Maltby mentioned that one contractor completed for the Anchorage School District and others.

[3:16:06 PM](#)

At ease

[3:17:50 PM](#)

CHAIR COSTELLO reconvened the meeting.

[CHAIR COSTELLO held HB 132 in committee.]

[3:18:10 PM](#)

There being no further business to come before the committee, Chair Costello adjourned the Senate Labor and Commerce Standing Committee meeting at 3:18 p.m.